IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CRIMINAL JURISDICTION

CRIMINAL APPLICATION NO.7309 OF 2005
IN
CRIMINAL APPEAL NO.1039 OF 2005

The State of Maharashtra. ..Applicant.
Vs.
Wahid Najir Khatik @ Rangari and ors. ..Respondents.

Mrs. U.V. Kejriwal, A.P.P. for the Applicant.

CORAM: B.H.MARLAPALLE &
R.S. MOHITE, JJ.
DATED :20TH FEBRUARY, 2007

P.C.

1. Heard Mrs. Kejriwal, the learned A.P.P.

2. The State has filed Criminal Appeal No.1039 of 2005 for enhancement of sentence awarded by the 4th Joint J.M.F.C. at Sangli in Reg. Cri. Case No.276/2000 but belatedly and hence, this application for condonation of delay.

3. As per the office record, the appeal is beyond time by 17 days. We are satisfied that the delay caused deserves to be condoned. Hence, this application is allowed in terms of prayer clause (a).

(R.S. MOHITE, J.) **(B.H. MARLAPALLE, J.)**

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1. Heard Mrs. Kejriwal, the learned A.P.P.

2. As the order of conviction and sentence has been passed by the learned 4th Joint J.M.F.C. at Sangli, as per Section 377(1)(a) of the Code of Criminal Procedure, the appeal lies before the Sessions Court as per the amendment which has been brought into force on 23.6.2006. The impugned order of conviction and sentence has been passed on 8.8.2005 i.e. prior to the amendment in Section 377 of the Code of Criminal Procedure and therefore, it is clear, as of now, the powers to entertain the appeal for enhancement of sentence lie with the Sessions Court. In the instant case, therefore, it would be appropriate that the application be transferred to the Sessions Court at

Sangli for hearing and final disposal.

3. The Registrar (Judicial) is therefore, directed to transfer the appeal to the Sessions Court at Sangli and the learned Sessions Judge at Sangli will allot the appeal for hearing at an early date.

(R.S. MOHITE, J.) **(B.H. MARLAPALLE, J.)**